

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**SHARON L. HELRIGGLE, et al.,**

**Plaintiffs,**

**-vs-**

**Case No. 3-:03-CV-336**

**GEORGE PETITT, et al.,**

**Judge Thomas M. Rose**

**Defendants.**

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**ENTRY AND ORDER GRANTING PLAINTIFFS' MOTION TO EXTEND  
TIME TO RESPOND TO DEFENDANT ROGER FORSTHOEFEL'S  
MOTION FOR SUMMARY JUDGMENT (Doc. #112); THE TIME TO  
RESPOND IS EXTENDED TO NOT LATER THAN DECEMBER 21, 2005**

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Now before the Court is Plaintiffs' Motion To Extend Time To Respond To Defendant Roger Forsthoefel's Motion for Summary Judgment ("MSJ"). (Doc. #112.) Defendant Roger Forsthoefel ("Forsthoefel") has responded opposing this motion for an extension of time. The time has run and the Plaintiffs have not filed a reply memorandum. Therefore, the Motion To Extend Time is now briefed and ripe for decision. A brief procedural background of the MSJ will first be set forth followed by an analysis of Plaintiffs' Motion To Extend Time.

**PROCEDURAL BACKGROUND**

Forsthoefel's MSJ was filed on June 4, 2004. (Doc. #49.) Plaintiffs responded on July 26, 2004, by seeking additional discovery pursuant to Fed.R.Civ.P. 56(f). (Doc. #67.) Forsthoefel filed a Reply Memorandum on August 6, 2004.

On August 18, 2004, this Court essentially granted Plaintiffs' Rule 56(f) motion and entered an Order that deferred ruling on the MSJ until such time as discovery is completed.

(Doc. #69.) Based upon the then current discovery schedule, Plaintiffs were specifically given until January 3, 2005, to respond to the MSJ.

On January 4, 2005, the Plaintiffs filed an unopposed motion for another extension of time to respond to the MSJ. (Doc. #83.) This motion was granted and the response deadline was extended to January 31, 2005.

On January 31, 2005, the Plaintiffs filed another unopposed motion for additional time to respond to the MSJ. (Doc. #96.) The reason given by Plaintiffs for an extension was that the taking of depositions would continue until late March 2005 and, as a result, May 16, 2005, would be the earliest date by which they could respond to the MSJ. This motion was also granted and the response deadline was extended to May 16, 2005.

On May 18, 2005, Plaintiffs filed the Motion To Extend Time To Respond that is now before the Court. This Motion was opposed by Forsthoefel. (Doc. #113.) Since this latest motion for an extension to respond to the MSJ, the discovery deadline has been extended and extensive discovery has taken place. The current discovery deadline is February 17, 2006 (doc. #115), and the deposition of Defendant Kent Moore, which was a key to completing discovery, is now scheduled to be taken by Plaintiffs on October 20, 2005 (doc. #116). Further, Plaintiffs' expert report is scheduled to be completed not later than November 30, 2005. (Doc. #115.)

### **ANALYSIS**

Plaintiffs have indicated that they can respond to the MSJ after obtaining an expert opinion regarding the circumstances surrounding the death of Clayton Helriggle. (Doc. #112.) Further, Plaintiffs have indicated that they can respond within approximately three (3) weeks of

receiving the expert opinion. (Doc. #96.) Finally, the expert opinion is to be completed not later than November 30, 2005. (Doc. #115.)

Therefore, Plaintiffs' Motion To Extend Time To Respond To Forsthoefel's Motion for Summary Judgment is GRANTED. Plaintiffs are given until not later than three (3) weeks following the completion of their expert report or until not later than December 21, 2005, to respond to Forsthoefel's MSJ. Finally, this Order does not address whether the Plaintiffs' expert opinion is relevant to all or any part of the MSJ.

**DONE** and **ORDERED** in Dayton, Ohio, this Fourteenth day of October, 2005.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record